

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3851 of 1988

Date of decision: 15-8-97

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

TADVI DINUBHAI SHANKERBHAI

Versus

STATE OF GUJARAT

Appearance:

None present for Petitioners
SERVED for Respondent No. 1
MR ANANT S DAVE for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision:15-8-97

CAV JUDGEMENT

The matter was called out for hearing in the first round, second round and lastly in the third round. But none put appearance on behalf of the petitioners.

Perused the special civil application and heard the learned counsel for the respondents. The petitioners, 29 in number, in this special civil application were appointed on daily wages in the office of Narmada Project Dam Division No.I, Kevadiya Colony, District: Bharuch, have prayed for quashing and setting aside the order dated 23rd June, 1988 terminating their services. Further prayer has been made for direction to the respondents to regularise their services in the regular cadre of Class III with deem date and consequential benefits flowing therefrom.

2. Respondent No.2 has filed detailed reply to the special civil application. It has been stated in the reply that out of 28 petitioners only 23 petitioners are working in the office of respondent No.2. So far as other five petitioners are concerned, respondent No.2 stated that they have been transferred to other divisions. The petitioners have not stated this fact in the special civil application and they have also not brought the subsequent development on the record of the petition.

3. Respondent No.2, in the reply, made statement that services of 23 petitioners working in the office of respondent No.2 have been regularised with fixed pay of Rs.950 plus Dearness Allowance as per rules applicable to such employees; and they are also being given medical allowance of Rs.75 per month; casual leave, earned leave, food grain advance, project allowance, benefit of G.P.F., gratuity, pension, etc., In view of this statement made by respondent No.2 with regard to 23 petitioners, whose services have been regularised, now nothing substantial survives in this special civil application qua those 23 petitioners. Absence of the counsel for the petitioner fortifies the position that these petitioners have got the benefits which they have prayed for in this special civil application; and their services have not been terminated. In view of the aforesaid facts, this special civil application has become infructuous so far as those 23 petitioners are concerned.

4. So far as the rest of the 5 petitioners are concerned, in absence of subsequent facts having not been

brought on record, no order can be passed. However, disposal of this special civil application will not come in their way to take appropriate legal course available to them including filing of application for revival of this special civil application, in case similar relief has not been granted to them as is given to the 23 petitioners. Though in the reply to the special civil application there is serious objection of suppression of facts, looking to the fact that respondent No.2 has regularised the services of 23 petitioner, I do not consider it to be in the fitness of things to deal with that objection.

5. In the result this special civil application is dismissed as having become infructuous. Rule discharged. Interim relief granted earlier stands vacated. No order as to costs.